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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1841 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DY EXECUTIVE ENGINEER

Versus

SANJAY HARIBHAI CHUDASMA

MS NAYANA V PANCHAL for Petitioner No. 1

MRS DT SHAH for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 10/01/2005

ORAL JUDGEMENT

#. Heard learned advocate Ms.Nayana V.Panchal on behalf of petitioner and Mrs.D.T.Shah, learned advocate on behalf of respondent.

#. In the present petition, the petitioner has challenged the award passed by the Labour Court, Junagadh, in Reference (LCJ) No.1128 of 1990 dated 21.7.1995, whereby, the Labour Court has granted backwages from 1.11.1987 to 17.8.1990 and relief of reinstatement has been rejected.

#. Learned advocate Ms.Nayana Panchal appearing for the petitioner submitted that services of the workman were terminated by issuing notice dated 29.9.1987 and along with that notice, it was specifically mentioned that the

workman should have collect the amount of retrenchment compensation and one month's salary from the office. She submitted that this notice has not been accepted by the workman and therefore the petitioner has complied with the provisions of Section 25F of the Industrial Disputes Act, 1947, and therefore, the Labour Court has committed gross error in granting relief of backwages in favour of the respondent.

#. Learned advocate Mrs.D.T.Shah appearing on behalf of the respondent-workman submitted that no oral evidence has been led by petitioner before the Labour Court and no documentary evidence has also been produced by the petitieonr before the Labour Court. Notice dated 29.9.1987 was also not produced by petitioner before the Labour Court and therefore, in absence of evidence from petitioner, the Labour Court has rightly believed the evidence of the workman and granted backwages for interim period on the ground that subsequently, he got another job on 17.8.1990 and therefore, there is no infirmity in the award committed by the Labour Court which requires interference by this Court.

#. I have considered the submissions made by both the learned advocates. The services were being rendered by the workman with effect from 1.12.1984 and services were terminated on 30.10.1987. Therefore, the respondent-workman had completed more than 240 days' continuous service within a period of preceding twelve months from the date of termination. The petitioner has not led any evidence and not produced any documentary evidence before the Labour Court. The workman was examined vide ex.10 and he denied that he was offered compensation. Against that, there is no rebuttal evidence produced by the petitioner, and as such, the Labour Court has relied upon the evidence of the respondent-workman and come to the conclusion that the workman got another job on 17.8.1990 and termination his violative of Article 25F of the Act and therefore termination order is set aside and the Labour Court has granted only relief of backwages and rejected the relief of reinstatement. According to my opinion, looking to the observations made by the Labour Court in paragraphs 4, and 5, the Labour Court has rightly appreciated the oral evidence and rightly given reasons in support of its conclusion. According to my opinion, the Labour Court has not committed any error which requires interference by this Court while exercising powers under Article 227 of the Constitution. Hence, there is no substance in the present petition and accordingly, the petition is dismissed. Rule is discharged. Interim relief, if any,

granted earlier and continues till date, shall stand vacated. No order as to costs.

(H.K.RATHOD, J.)

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